



MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Fish, followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS Bennett, Bogue, Caveglia, Halliday, Williams, Zermeno
CHAIRPERSON Fish
Absent: COMMISSIONER None

Staff Members Present: Armes, Bauman, Jeffery, Looney, Woodbury,

General Public Present: Approximately 10

PUBLIC COMMENT

There were no public comments.

AGENDA

- I. Preliminary Draft of the Five-Year Capital Improvement Program** (Fiscal Years 2000-2001 Through 2004-2005) – Review for consistency with General Plan.
- 2. Reconsideration of Variance No. 00-180-05 – Arcelina and John Emory (Applicants/Owners):** Request to construct an addition to a dwelling 15 feet from the front property line where a minimum of 20 feet is required. The project location is 24918 Broadmore Avenue, easterly side, approximately 50 feet north of Lindhurst Lane (Santa Clara neighborhood) in the Single-Family Residential (RS) District.
- 3. Revocation of Use Permit Application No. 90-44 – Continued from November 4, 1999 – K9-K9 Kennels (Applicant), James and Frances Dalton Trust (Owners):** Request for the Planning Commission to consider the revocation of a use permit for the operation of a dog kennel/training facility.

PUBLIC HEARINGS

- I. Preliminary Draft of the Five-Year Capital Improvement Program** (Fiscal Years 2000-2001 Through 2004-2005) – Review for consistency with General Plan.

Deputy Director Bauman described the future plans for various Capital Improvement Programs throughout the City. He indicated that the Airport Master Plan projects for this year were included. He then responded to questions from Commissioners.

Chairperson Fish complemented Staff for this effort and thanked them.

Public Hearing Opened and Closed at 7:41 p.m.

Commissioner Bennett **MOVED**, seconded by Commissioner **Zermeño**, that the 5-Year Capital Improvement Program is consistent with the General Plan.

2. Reconsideration of Variance No. 00-180-05 – Arcelina and John Emory (Applicants/Owners): Request to construct an addition to a dwelling 15 feet from the front property line where a minimum of 20 feet is required. The project location is 24918 Broadmore Avenue, easterly side, approximately 50 feet north of Lindhurst Lane (Santa Clara neighborhood) in the Single-Family Residential. (RS) District.

Principal Landscape Architect/Planner **Woodbury** explained that with the last vote on April 27, with two Commissioners absent, no action was actually taken. She then responded to questions from Commissioners.

The Public Hearing Opened and Closed at 7:47 p.m. with no input from the public.

Commissioner Caveglia said he watched the tapes from the previous meeting and **moved**, seconded by Commissioner Bennett, to approve the variance.

Commissioner **Bogue** said he would not support the motion since the Commission looks at subdivision proposals to make sure they are articulated with defined setbacks and streetscapes. He suggested that in the future the Commission should look at locking in the setbacks.

Commissioner Williams said he would support the motion given the circumstances. The applicant is required to fix the earthquake damage anyway. It will not change the character of the neighborhood. He suggested the Commission should assist this homeowner, and in future look at the older neighborhoods for ways of improving the homes for more space, etc.

Commissioner Halliday said she did not support this last time. She has now looked at the property, and finds it unusual looking. She would be more inclined to support it if the extension only filled in the gap. She said she did not see this as an improvement. She would be reluctant to approve what may make it look worse.

Commissioner Bennett said at the last hearing she supported the application. The neighborhood has a variety of homes and this will be an improvement. She noted that there are setbacks at several levels in the area.

Commissioner **Zermeño** noted that the extension won't go further than the garage,

Chairperson Fish said he would not support the motion since set-backs are constant in these neighborhoods.



The motion **carried** by the following vote:

AYES:	COMMISSIONERS Bennett, Williams, Zermeno, Caveglia
NOES:	COMMISSIONERS Bogue, Halliday CHAIRPERSON Fish
ABSENT:	None
ABSTAIN:	None

- 4. Revocation of Use Permit Application No. 90-44 – Continued from November 4, 1999 – K9-K9 Kennels (Applicant), James and Frances Dalton Trust (Owners):** Request for the Planning Commission to consider the revocation of a use permit for the operation of a dog kennel/training facility.

Principal Landscape Architect/Planner Woodbury explained that operator had paid the fines and removed trailers. Staff was asking the Commission to revoke the existing Use Permit for violations of Animal Code. She indicated that there were members of staff from Animal Control and Community Preservation.

Commissioner Halliday asked whether the only remaining complaint was that the applicant boarded dogs together? She wondered whether as a Planning Commission with little information on animal control standards, how were they to make an informed decision. Are there standards? Do they discourage this type of boarding.

Greg Armes, City of Hayward Animal Control, indicated that there are no laws per se, but professional standards. In an open area environment with a large numbers of dogs who board over night such as that at the San Francisco SPCA there are fairly strict guidelines. There are two or three people on the property and the owner fills out a questionnaire. A check is also made to see if the dogs can handle the large groups.

In response to further questioning on whether Mr. Van Voast provides a similar service Animal Services Manager Armes indicated that the dog in question had been dead for over an hour before the body was discovered. This indicates lack of control at the facility.

Chairperson Fish opened the Public Hearing at 8:00 p.m.

Hunter Pyle, Attorney for K9-K9, asked members to remember the tone of previous testimony, where there were numerous people testifying to the positive nature of the Kennel. After the Hearing he said he sent a letter to Planner Nancy Hutar, asking that he be contacted for any further information. At that time there were two major concerns, the trailer on the property and an outstanding fine. Mr. Van Voast had taken care of both of these. He then made a point of

saying it was a tragedy the dog died, but the reality is dogs are animals and when they are put together things may happen. He developed an analogy comparing dogs to children whose parents are deciding where to send them to summer camp. They usually have a choice of indoor or outdoor activities. With pets it is very much the same. Dogs can be housed outside or inside. There are a lot of kennels which house animals in concrete cells. Although K9-K9 is not like that, it is not for everyone. This alternative gives people a choice. If you want your dog in an individual kennel they have them and owners can ask for them. It is an individual choice people make. The last time this item was heard, the Commission made emphasized responsibility. For the past six months Mr. Van Voast has acted responsibly. City did not acted responsibly. No one called to say what they could do.

Commissioner Bennett commented that a parent would look into reasonable risks. She also wondered whether possible clients were you given something that pointed out potential danger.

He responded that he was told that his dog would first go into a smaller pen with limeted group of animals to see what the dog is like, if it can deal with the big pen. Many dogs not qualified to go into the big pen. He added that he believed the dog would be taken care of. Regarding possible injury, that is the risk you run.

Commissioner Williams questioned Mr. Pyle about the letter he wrote to the City, November, 1999, saying Planning has an excellent staff who would respond in a timely manner.

Principal Landscape Architect/Planner **Woodbury** described a letter written in response to his which was sent to say any hearing would be postponed until May.

Chip Corrnier, 6776 Crow Canyon Road, owner of Camp Canine in Castro Valley, spoke to the co-mingling of dogs. He explained that his establishment is a doggie day-care center. Like children, dogs need to be supervised at all times. Any problems can always escalate. The first requirement is that all the animals have had their vaccinations. The second step is an interview at the facility. The owners and pets observe staff and staff observes them to determine any sort of aggression or shyness. He added there is always a counselor within visual observation of the dog. When a dog is housed overnight, he will be paired with another dog in the bunkhouse. They try very hard to keep the environment comfortable for the dog. Any behavioral problems are noted. He suggested that the dog in question at **K9-K9** was not supervised properly for it to have been dead for so long before it was discovered.

Commissioner Halliday asked about general guidelines.

Mr. Cormier said they follow the instructions of Dr. Ian Dunbar, a very well-respected trainer, bit that no, there are no specific guidelines for doggie day care. At their establishment, they require all of the dogs to be spade and neutered.

Joe Santos, 19211 Edwin Markham Drive, Castro Valley, owner of the dog who was killed. He urged the Commission to revoke the permit. He said that the history of the kennel indicated that there was little care with respect to either the rules of the City or the dogs themselves, They, personally, had no choice but to board the dogs. He said there is an expectation of safety and

**REGULAR MEETING OF THE PLANNING
COMMISSION, CITY OF HAYWARD,
Council Chambers****Thursday, May 18, 2000, 7:30 P.M.
777 "B" Street, Hayward, CA 94541**

care and diligence provided by the operator. The history shows that there was incident after incident. He asked how many more incidents would need to occur before it is realized that this business is a blight on the City. This pet was very dear to their 7-year-old daughter. He then asked for the autopsy photos to be shown in evidence. He added that he has no vested interest in this hearing but does not want to see this happen again to another family.

Halliday asked how they came to the decision to leave their dog and were they given informed consent when they left the dogs.

Pam Santos, 19211 Edwin Markham Drive, Castro Valley, said they would not normally board their dogs but this was a special holiday week. She said she was assured that the dogs would be in a kennel by themselves. If they seemed ready, they would be put in the community area with other dogs. She said she trusted their judgement. When she first called the facility she asked about past incidents. She was assured there had been none during the tenure of that employee. She took that in good faith and assumed it was a good care facility.

Commissioner Caveglia asked Mr. Van Voast for a response.

He replied that it was a tragic incident. For the ten years he had been in business this was the first animal killed in those open areas. He explained that they do test the dogs. He said the majority of the dogs were dogs they would normally board. There were very few strange dogs, just there just for the holidays.

Commissioner Halliday asked about the records and requirements for shots, etc., she then asked about the standards of observation?

Mr. Van Voast indicated that there may be times when the dogs are alone, but the bulk of the time the dogs are supervised. He then added that Ian Dunbar spoke on his behalf at a Council meeting. He indicated that the majority of people who have dogs in day care and multiple dog systems follow Mr. Dunbar's methods. He added that people are told, if they want their dogs kept separate, they have separate runs. He said their business has grown enough to turn a great number of dogs away.

Commissioner Williams asked whether the signatures, were those of clients who used the kennels. He had to agree that most of the speakers at past meetings were employees, and Animal Rescue employees, not customers. He expressed concern regarding Mr. Van Voast's ability to follow the rules and regulations of the dogs, and asked whether they had considered installing video cameras.

Mr. Van Voast said that was a possibility.

DRAFT

Susan Hagen, Dublin Creek Kennels, 570 Dalman Way, Dublin, owns a boarding kennel; her place is different. They have individual runs for the dogs, heated and air conditioning. They never put dogs together because it is dangerous for the dogs. When dogs get together in large groups you don't know who might be dominant and fight. You would have to be very careful, and provide constant supervision with quite a few people, Owners do have a responsibility to visit the boarding kennel. Once the owners decide, the kennel owner has a responsibility to keep those pets safe. Her kennel is her life and her family's life. She said she wished there were stricter guidelines.

Chairperson Fish closed the Public Hearing at 8:41.

Commissioner Bennett said this was a difficult issue in a lot of ways. At the last hearing, she supported the 6-month extension since this is a service that many people want. A reasonable person has a right to expect care and supervision when it is implied. She said it has been shown that due diligence to service implied was not provided. So she moved, seconded by Commissioner Halliday, to revoke the Use Permit application, and adopt the resolution, based on findings set forth in the attachment C.

Commissioner Halliday said it was difficult since Mr. Van Voast has good intentions, maybe there should be stricter regulations in this area. She really appreciated the people from Castro Valley who were there in order to clarify how people who operate a facility like this should think. She stopped by the kennel and saw dogs but no supervisors. A person has more peace of mind when they know their animals are safe. In the absence of strong regulations, the Commission is enjoined to make this decision and, in the end, she was guided by staff and the Animal Control people..

Commissioner Caveglia said he had supported the kennel in the past, and he questioned the role of the Commission in this issue. The Planning Commissions job is land use. He wondered whether they are qualified to make decisions on what is proper or not. The idea of this kennel is valuable. Accidents do happen. Mr. Van Voast has been there a long time. He was sorry there were not more people at the hearing. Testimony of that kind is valuable to understand this type of kennel. Competitors are testifying against him. He advised Mr. Van Voast that if this goes to Council, he should encourage customers and staff to come to that meeting.

Commissioner Williams agreed that he, too, had mixed feelings, The last time they heard that Mr. Van Voast provided a much needed service, rescue service. Want to know your pet is going to be safe, in business 10-years. However, staff has provided information regarding the history that with ten years experience, things could have been different. This is a hard choice. However, he would support the motion. Perhaps, he could get more information to run the kennel better at a later date. This action might get his attention.

Chairperson Fish agreed that this is a difficult issue, He had supported K9-K9 in the past. It is difficult to find a place to board a dog, particularly during the holidays. He, too, would support the motion to get it up to the City Council.

Commissioner Zermeno said he did not know there are no regulations on animals. Perhaps this



might encourage someone to write them. He said he would support the motion. He said he hoped something good might come out of this.

Commissioner Bogue said he also would support the motion. He remembered all of the other past testimony of the care and supervision at K9-K9. This dog had no supervision. Normally, people are on their best behavior during times of probation. But here there was a lack of supervision.

The motion carried by the following vote:

AYES:	COMMISSIONERS Bennett, Bogue, Halliday, Williams, Zermeno
NOES:	COMMISSIONERS Caveglia
ABSENT:	None
ABSTAIN:	None

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters – No reports
4. Commissioners' Announcements, Referrals –

Commissioner Halliday commented on a brochure from the County that indicated some of the transportation projects, Route 238/Mission Boulevard. It indicates that this project had been fully funded. However, she was under the impression they were not, and were still in the Courts.

Principal Landscape Architect/Planner Woodbury agreed that she was right.

Commissioner Caveglia thanked Assistant City Attorney Nakatsu for all of her years of service to the City and the Commission. He added he was sorry to see her leave.

Assistant City Attorney Nakatsu said she appreciated the opportunity to be of service.

Commissioner Bennett asked for a definition of "affordable housing."

Principal Landscape Architect/Planner Woodbury explained that the term was based on income levels and rental costs.

APPROVAL OF MINUTES

- April 27, 2000 - approve
- May 4, 2000 - approve

Chairperson Fish presented a resolution of commendation to Assistant City Attorney Nakatsu for her thirteen years of service to the City and the Planning Commission.

ADJOURNMENT

The meeting was adjourned by Chairperson Fish at 8:57 p.m.

APPROVED:

Barbara Halliday, Secretary
Planning Commission

ATTEST:

Edith Looney
Commission Secretary